



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,690	08/25/2003	Kathryn Thompson	TH0600	3275

7590 Ingrid McTaggart 3021 S.E. 56TH AVE. Portland, OR 97206		01/10/2008
---	--	------------

EXAMINER WOOD, KIMBERLY T	
------------------------------	--

ART UNIT 3632	PAPER NUMBER
------------------	--------------

MAIL DATE 01/10/2008	DELIVERY MODE PAPER
-------------------------	------------------------

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/647,690	THOMPSON, KATHRYN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kimberly T. Wood	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 7-10, 15, 17 and 21-33 is/are pending in the application.
- 4a) Of the above claim(s) 27, 28 and 30-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10, 21-23 and 29 is/are allowed.
- 6) ☒ Claim(s) 15, 17, 24 and 26 is/are rejected.
- 7) ☐ Claim(s) 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

This is an office action for serial number 10/647,690.

***Election/Restrictions***

Newly submitted claims 27, 28, 30-33 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the original claims were directed to an easel which did not include the specifics of an art work to be supported. The new claims include the combination of a specific art work having a flat lower surface, a flexible material secured on a rigid rectangular frame, a canvas secured to a rigid rectangular frame, and a back surface that contacts said upwardly extending stop surface of said rail sleeve. By providing the further limitations of the artist work piece the claimed invention now is independent and distinct from the originally claimed invention which would lead the examiner to search in a different class and perform a different text search.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27, 28, 30-33 withdrawn from

consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

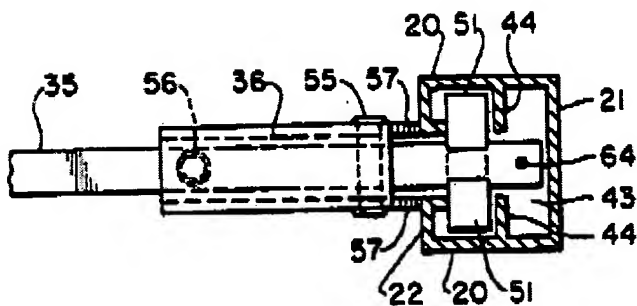
***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15 ,17, 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by David 5,188,323. David discloses a vertical support member (Figure 2) including an interior cavity, a pulley system (figure 3), a horizontal support member (40), clamp (36 and 35), a brake block (51).. David discloses all of the limitations of the claimed invention except for the horizontal support member including an upper surface that defines a continuous flat expanse. It would have been obvious to have made the an upper surface that defines a continuous flat expanse since such a modification is merely a change in shape and a change in the shape of a prior art device is a design consideration within the skill of the art without destroying the

invention or causing any unexpected results. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). The modification of the horizontal support to have an upper surface that defines a continuous flat expanse would still allow the supported member (15) to be supported on the horizontal member as claimed.



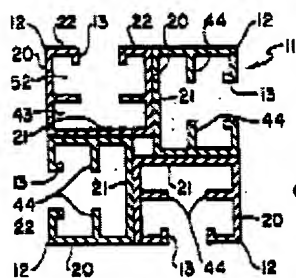


FIG. 2.

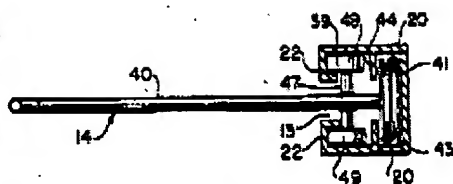


FIG. 5.

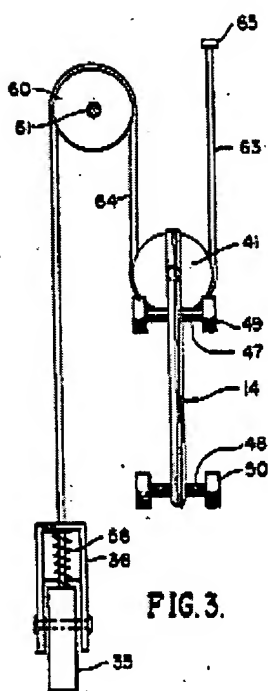


FIG. 3.

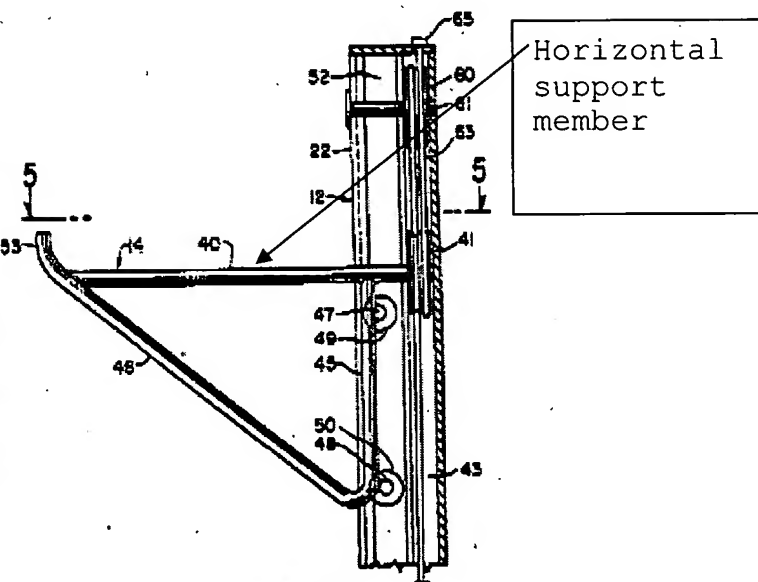


FIG. 4.

**Allowable Subject Matter**

Claims 7-10, 21-23, 29 are allowed.

Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent

form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies within claims 15, 17, 24, 26 (i.e., work piece) not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's argument that David does not disclose horizontal surface that defines a continuous flat expanse this argument is hereby traversed. It would have been obvious to have made the an upper surface that defines a continuous flat expanse since such a modification is merely a change in shape and a change in the shape of a prior art device is a design consideration within the skill of the art without destroying the invention or causing any unexpected results. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). The modification of the horizontal support to have an upper surface

that defines a continuous flat expanse would still allow the supported member (15) to be supported on the horizontal member as claimed.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Application/Control  
Number: 10/647,690  
Art Unit: 3632

Page 8

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kimberly T. Wood  
Primary Examiner  
Art Unit 3632

January 4, 2008